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REMARKS/ARGUMENTS

This case has been carefully reviewed and analyzed. Reconsideration and favorable action are respectfully requested.

CLAIM REJECTION UNDER 35 U.S.C. 102(b)

The Examiner stated that claims 1, 2, 4, 8, 12 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by MacDowney (US 1,299,987, simply cited as the '987 patent).

In addition, claims 1, and 5-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Kathan (US-5,419,053, simply cited as the '053 patent).

CLAIM REJECTION UNDER 35 U.S.C. 103(a)

Claims 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over MacDowney in view of Maier (US-4,539,881, simply cited as the '881 patent).

Moreover, claim 3 is rejected under U.S.C. 103(a) as being unpatentable over MacDowney in view of Wagniere et al (US-761,272, simply cited as the '272 patent).

Responsive to foregoing rejections, claim 1 has been amended to clearly define the shape of the secondary ruler and the relation between the main ruler, secondary ruler and the auxiliary ruler to make the present application distinguishable from prior patents, wherein the secondary ruler is a separated element and has a semi-circular shape. Detailed analysis about differences between the prior patents and the present application are respectively illustrated in the following paragraphs:

1. The separated secondary ruler is not shown in any prior patents

1-a) With regard to '978 patent, the Examiner stated that the '978 patent disclosed a protractor and ruler combination comprising a main ruler (10), a secondary ruler (21) and an auxiliary ruler (11), wherein the secondary ruler (21) is rotatably mounted on the main ruler (11) and has a plurality of scales (see Fig. 2 in the '978 patent). However, according to the specification (column 1, line 53- column 2, line 3), claims 1 and 2 of the '978 patent, the protractor and ruler combination simply comprises two flat bars or members (10 and 11, ruler members). **An edge part (21) is integrally formed on the member (11)** to serve as a graduating element but not a secondary ruler separated from the ruler members (10, 11) (see column 2, lines 80-92). Therefore, the edge part (21) previously regarded as the secondary ruler is a part of the member (11). With reference to Figs. 2, 6 and 5, a two-layer structure composed of ruler members (10, 11) is shown clearly, particularly in Fig. 5 that is a cross-sectional side view

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showing a second preferred embodiment of the protractor and ruler combination of the '978 patent.

However, the protractor and ruler combination in the present invention comprises a main ruler (1), a secondary ruler (2) and an auxiliary ruler (3), wherein the secondary ruler (2) is a separated element and clamped between the main ruler (1) and the auxiliary ruler (3) to compose a three-layer structure. This difference between of the '978 patent and the present application in structures is that the secondary ruler (2) defines an elongated gap between the main ruler (1) and the auxiliary ruler (3) to selectively accommodate the anti-skid pad (35).

Therefore, the '978 patent doesn't disclose the structure feature about the separated secondary ruler in claim 1 of the present application and the rejection under 35 U.S.C. 102(b) based on the '978 patent is overcome. Claim 1 is patentable and other claims 2, 4, 8, 12 and 13 depending on claim 1 are also allowable.

1-b) With regard to '053 patent, the Examiner stated that the '053 patent disclosed a protractor and ruler combination comprising a main ruler (16), a secondary ruler (14a) and an auxiliary ruler (14b), wherein the secondary ruler (21) is rotatably mounted on the main ruler (11) and has a plurality of scales (see Fig. 3 in the '053 patent). However, according to the specification (column 3, line 58-60 and column 4, lines 20-29), claims 1 and 9 of the '053 patent, the protractor and ruler comprises a primary body (12) and a second body (14), wherein the numeral "16" represents a primary ruler being a part of the primary body (12), and the second body (14) consists of a pair parallel spaced members (14a and 14b). With further reference to Fig. 1, the primary body (12) is pivotally positioned between the pair of parallel spaced members (14a and 14b) at the pivot point (60) so that the second body (14) serves as a bracket to the primary body (12). Although the second body (14) has secondary protractors (42a, 42b) respectively formed on the parallel spaced members (14a and 14b), this feature does not make the two parallel spaced members separated into two different elements as the secondary ruler and the auxiliary ruler in the present application. Because the two parallel spaced members are symmetrical and can not be identified separately from each other, the secondary ruler and auxiliary ruler in the present application having different shapes and different functions are distinguishable from the secondary body (14) in the '053 patent.

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Further, a usage problem of the protractor and ruler combination in the '053 patent is derived from the structure of the parallel spaced members. With reference to Fig. 1, a lever (66) with two arms (68 and 70) and a screw clamp (64) is necessarily attached to the second body (14) to synchronously drive the two parallel spaced members (14a and 14b). According to above description, the protractor and ruler combination in '053 patent is more complex in structure than the one in the present application and has more thickness at the joint of the screw member combining the lever, the parallel spaced member and the primary body. Therefore, the protractor and ruler combination of '053 patent can not completely stay close to a flat surface so that drawing with this protractor and ruler combination on the flat surface is not precise.

Therefore, rejections under 35 U.S.C. 102(b) based on the '053 patent is overcome. The amended claim 1 is patentable and other claims 5-7 depending on claim 1 are also allowable.

1-c) With reference to the '881 patent, the secondary ruler is not disclosed because the rejection feature of the '881 patent cited by the Examiner is only the anti-skid pad that cooperates with elementary features of the '978 patent.

1-d) With reference to the '272 patent, the secondary ruler is not disclosed because the rejection feature of the '272 patent cited by the Examiner is only the flattened support member (19) that cooperates with elementary features of the '978 patent.

In conclusion, the claim 1 containing the patentable feature of the separated secondary ruler and defining a unique three-layer structure is apparently distinguishable from the four prior patents and definitely allowable.

2. Further discussion about differences of the present application to the '881 patent and the '272 patent

2-a) The Examiner stated that the '881 patent discloses a protractor comprising an anti-skid pad that the '978 patent does not disclose. Although the anti-skid pad has the elementary function the same as the one in the present application, the arrangement of the anti-skid pad is different. According to the specification and the drawings of the '881 patent, the anti-skid pad directly contacts the surface of workpiece to avoid scratching.

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However, the anti-skid pad in the present application not only prevents the scratching but also provides a separator between the main ruler and the auxiliary ruler because the secondary ruler is clamped between the main ruler and auxiliary ruler and a gap is defined therebetween. Therefore, the anti-skid pad has a different function (of being the separator) and is not the same as the one in the '881 patent.

2-b) The Examiner stated that the '272 patent discloses a protractor and ruler combination comprising a flattened support member (19) that the '978 patent does not disclose. According to lines 48-63, right column, in page 2 of the '272 patent, the flattened support member (19) is a link for holding the legs in position to keep the combination-tool in shape.

With regard to the flattened support member (14) in the present application, the flattened support member (14) is an accessory for helping the auxiliary ruler to move on the surface of workpiece. Therefore, the flattened support member (14) also has a different function in comparison with the link (19) in the '272 patent.

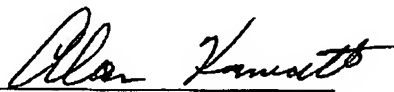
Therefore, the '881 and '272 patents do not disclose the features in claims 3 and 9-11 of the present application. Rejections under 35 U.S.C. 103(a) based on the '881 and '272 patents do not exist.

Therefore, it is believed that, the rejections under 35 U.S.C. 102(b) and 103(a) are overcome, and the claims 1-13 are allowable. Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

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